

Honorable Lonny R. Suko

Scott M. Ellerby  
Mills Meyers Swartling  
1000 Second Avenue, 30<sup>th</sup> Floor  
Seattle, WA 98104-1064  
Telephone: (206) 382-1000  
[sellerby@mms-seattle.com](mailto:sellerby@mms-seattle.com)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

NATHAN CAMPTON,

Plaintiff,

NO. CV-09-12-LRS

V.

## NCO FINANCIAL SYSTEMS, INC.,

## NCO FINANCIAL SYSTEMS, INC.'S ANSWER AND AFFIRMATIVE DEFENSES

## Defendants.

NCO FINANCIAL SYSTEMS, INC.,  
Defendants.

AFFIRMATIVE DEFENSES

Now comes defendant, NCO Financial Systems, Inc. (“NCO”), by and through undersigned counsel, and for its answer to plaintiff’s Complaint, states as follows:

## I. NATURE OF ACTION

1. NCO admits that plaintiff purports to bring this action for alleged violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*,

NCO FINANCIAL SYSTEMS, INC.'S ANSWER  
AND AFFIRMATIVE DEFENSES - 1  
(NO. CV 09-12-LRS)

LAW OFFICES OF  
**MILLS MEYERS SWARTLING**  
1000 SECOND AVENUE, 30TH FLOOR  
SEATTLE, WASHINGTON 98104-1064  
TELEPHONE (206) 382-1000  
FACSIMILE (206) 386-7343

1 ("FDCPA"), the Revised Code of Washington, Chapter 19.16 and plaintiff's  
 2 right to privacy, but denies any cause of action thereunder and denies any  
 3 wrongdoing or violations thereof.

4

## 5 II. JURISDICTION

6 2. NCO admits that the allegations in ¶ 2 solely for jurisdictional  
 7 purposes. The allegations in ¶ 2 are otherwise denied.

8

## 9 III. PARTIES

10 3. NCO denies the allegations in ¶ 3 for lack of sufficient information  
 11 to justify a belief therein.

12 4. NCO denies the allegations in ¶ 4 for lack of sufficient information  
 13 to justify a belief therein.

14 5. NCO denies the allegations in ¶ 5 for lack of sufficient information  
 15 to justify a belief therein.

16 6. NCO admits that it is a licensee as defined by  
 17 RCW § 19.16.100(9). NCO further admits that when it acts as a debt collector  
 18 as defined by 15 U.S.C. § 1692a(6), its debt collection activities may be  
 19 regulated by certain provisions of the FDCPA. Except as specifically admitted,  
 20 NCO denies the allegations in ¶ 6.

21  
 22  
 23  
 24  
 25  
 26  
 NCO FINANCIAL SYSTEMS, INC.'S ANSWER  
 AND AFFIRMATIVE DEFENSES - 2  
 (NO. CV 09-12-LRS)

LAW OFFICES OF  
**MILLS MEYERS SWARTLING**  
 1000 SECOND AVENUE, 30TH FLOOR  
 SEATTLE, WASHINGTON 98104-1064  
 TELEPHONE (206) 382-1000  
 FACSIMILE (206) 386-7343

#### IV. FACTUAL ALLEGATIONS

7. NCO admits that its account records reflect NCO contacted plaintiff in a lawful attempt to collect a debt. Except as specifically admitted, NCO denies the allegations in ¶ 7.

8. NCO denies the allegations in ¶ 8.

9. NCO denies the allegations in § 9.

**COUNT I: VIOLATION OF FAIR DEBT  
COLLECTION PRACTICES ACT**

10. In response to ¶ 10, NCO hereby incorporates by reference its responses contained in the above paragraphs as though set forth in full.

## PRAYER FOR RELIEF

NCO denies that plaintiff is entitled to the relief sought under Count I.

**COUNT II: VIOLATION OF WASHINGTON COLLECTION AGENCY ACT, WHICH IS A PER SE VIOLATION OF THE WASHINGTON CONSUMER PROTECTION ACT**

11. In response to ¶ 11, NCO hereby incorporates by reference its responses contained in the above paragraphs as though set forth in full.

## PRAYER FOR RELIEF

NCO denies that plaintiff is entitled to the relief sought under Count II.

And now, in further Answer to the Complaint, NCO avers as follows:

**NCO FINANCIAL SYSTEMS, INC.'S ANSWER  
AND AFFIRMATIVE DEFENSES - 3  
(NO. CV 09-12-LRS)**

LAW OFFICES OF  
**MILLS MEYERS SWARTLING**  
1000 SECOND AVENUE, 30TH FLOOR  
SEATTLE, WASHINGTON 98104-1064  
TELEPHONE (206) 382-1000  
FACSIMILE (206) 386-7343

**FIRST AFFIRMATIVE DEFENSE**

One or more of the counts contained in the Complaint fail to state a claim against NCO upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

Pursuant to 15 U.S.C. § 1692k(c), to the extent that a violation(s) is established and in the event NCO is found to be a debt collector as defined in the FDCPA, any such violation(s) was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid such error.

**THIRD AFFIRMATIVE DEFENSE**

Assuming that plaintiff suffered any damages, plaintiff has failed to mitigate his damages or take other reasonable steps to avoid or reduce his damages.

**FOURTH AFFIRMATIVE DEFENSE**

Any harm suffered by plaintiff was legally and proximately caused by persons, individuals, corporations, or entities beyond the control or supervision of NCO, or for whom NCO is not responsible or liable.

WHEREFORE, Defendant, NCO Financial Systems, Inc., respectfully request that this answer be deemed good and sufficient, plaintiff's lawsuit be

NCO FINANCIAL SYSTEMS, INC.'S ANSWER  
AND AFFIRMATIVE DEFENSES - 4  
(NO. CV 09-12-LRS)

LAW OFFICES OF  
**MILLS MEYERS SWARTLING**  
1000 SECOND AVENUE, 30TH FLOOR  
SEATTLE, WASHINGTON 98104-1064  
TELEPHONE (206) 382-1000  
FACSIMILE (206) 386-7343

1 dismissed, with prejudice, at plaintiff's costs, pursuant to Federal and State law,  
2 plaintiff be ordered to pay reasonable attorney's fees and costs for NCO, and  
3 for all other general and equitable relief.

4  
5 Respectfully submitted this 23rd day of February, 2009.  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MILLS MEYERS SWARTLING  
Attorneys for Defendant

By: /s/Scott M. Ellerby  
Scott M. Ellerby  
WSBA No.: 16277

NCO FINANCIAL SYSTEMS, INC.'S ANSWER  
AND AFFIRMATIVE DEFENSES - 5  
(NO. CV 09-12-LRS)

LAW OFFICES OF  
**MILLS MEYERS SWARTLING**  
1000 SECOND AVENUE, 30TH FLOOR  
SEATTLE, WASHINGTON 98104-1064  
TELEPHONE (206) 382-1000  
FACSIMILE (206) 386-7343

## **CERTIFICATE OF SERVICE**

I hereby certify that on February 23, 2009, I electronically filed NCO FINANCIAL SYSTEMS, INC.'S ANSWER AND AFFIRMATIVE DEFENSES with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

Jon N. Robbins [jrobbins@AttorneysForConsumers.com](mailto:jrobbins@AttorneysForConsumers.com)

**MILLS MEYERS SWARTLING**  
Attorneys for Defendant

By: /s/Scott M. Ellerby  
Scott M. Ellerby, WSBA No. 16277

NCO FINANCIAL SYSTEMS, INC.'S ANSWER  
AND AFFIRMATIVE DEFENSES - 6  
(NO. CV 09-12-LRS)

LAW OFFICES OF  
**MILLS MEYERS SWARTLING**  
1000 SECOND AVENUE, 30TH FLOOR  
SEATTLE, WASHINGTON 98104-1064  
TELEPHONE (206) 382-1000  
FACSIMILE (206) 386-7343